

## REMARKS

The issuance of a final Restriction Requirement has been noted.

The Examiner is thanked for acknowledging the claim to priority.

The specification has been amended to add section heading where appropriate.

In response to the objection to the use of a number between  $X_1$  and  $X_2$  in claim 1, the claim has been amended to delete the numbers.

In response to the rejection under 35 U.S.C. §101, the claims have been amended to recite --A uracil-- or --The composition--. For this reason, it is requested that this ground of rejection be withdrawn.

In paragraph 8 of the Office Action, claims 25-27 were rejected under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Reconsideration is requested.

Claim 25 has been amended to delete the reference to "possibly also a blend of isomers" and claim 26 has been amended to delete the term "such as". Claim 27 has been made dependent on claim 26 while the term "further" has been deleted and the term --other-- has been inserted. For this reason, there is now a proper antecedent basis for the terms in claim 27. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 14 of the Office Action, claims 1-3 and 25-28 were rejected under 35 U.S.C. §102(b) as being anticipated by Wenger et al. (Wenger).

Reconsideration is requested.

Claim 1 has been amended to limit the definition of R<sub>1</sub>, R<sub>2</sub>, R<sub>3</sub> and R<sub>4</sub> to hydrogen or a C<sub>1</sub>-C<sub>4</sub> alkyl group. In addition the heterocyclic groups embraced by Q have been limited to 1,3,4-oxadiazolyl; 1,3,4-thiadiazolyl; 1,2,4-thiadiazolyl and 1,2,4-oxadiazolyl. The definition of Y has been limited to a C<sub>1</sub>-C<sub>6</sub> alkoxy or haloalkoxy group. These amendments to claim 1 avoid the basis for the rejection for anticipation by limiting the claimed compounds to those compounds having substituents which are different from those enumerated by Wenger. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 17 of the Office Action, claims 1-3 and 25-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wenger in view of In re Norris, 179 F.2d 970 (CCPA 1950).

Reconsideration is requested.

As noted above, the claims have been amended so that Q is limited to 1,3,4-oxadiazolyl; 1,3,4-thiadiazolyl; 1,2,4-thiadiazolyl and 1,2,4-oxadiazolyl. Compounds with these substituents are not disclosed or suggested by Wenger. For this reason, the amended claims define non-obvious subject matter.

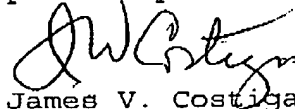
Attached hereto is a Declaration Under 37 CFR §1.132 which provides comparative tests of prior art compounds with compounds 111, 115 and 117 of the present application. The compounds of the present invention include compounds where the Q substituent is either a unsubstituted oxadiazole or an unsubstituted oxadiazole derivative whereas the prior art compounds have Q substituents which are either a triazole derivative or a substituted oxazole. The test results show

that the compounds of the present invention have a higher herbicidal activity with a lower phytotoxicity than the compounds of the prior art. For these reasons, it is believed that any inference of obviousness that could be drawn from the Wenger patent has been overcome and it is requested that this ground of rejection be withdrawn.

Claim 3 has been canceled and the rejection for double patenting has been rendered moot.

An early and favorable action is earnestly solicited.

Respectfully submitted,



James V. Costigan  
Registration No. 25,669

Hedman & Costigan, P.C.  
1185 Avenue of the Americas  
New York, NY 10036  
(212) 302-8989